

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

SECOND MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Come now the plaintiffs, by and through counsel, to move this Court to amend their complaint a third time. In support of this motion, plaintiffs would show the Court the following.

1. Plaintiffs have two pending motions before the Court (docket entries #10 and #11) that will be greatly simplified by this motion. The Court can essentially ignore those two motions and focus only upon this motion for leave to amend their complaint for all the relief the plaintiffs currently seek.

2. Plaintiffs realize that this will be the third amended complaint (the first amended complaint was done as a matter of right under FRCP 15). However, the reason for the multiple amended complaints is that each time plaintiffs filed new pleadings the defendants engaged in more and more wrongdoings that added gave plaintiffs new causes of action, and they needed to amend their complaints to conform with the rapidly changing facts.

3. In addition to the matters raises in docket entries #10 and #11, plaintiffs realize that they have missed a procedural step. That is, they now realize that the supplementary tort relief they are seeking under Count Two of the complaint as it currently exists is premature in that a notice of claim ninety (90) days in advance of bringing a lawsuit in law or equity has not yet been submitted to the Hinds County Chancery Clerk pursuant Miss. Code § 11-46-11(1) (2013). That does not negate the 42 U.S.C. § 1983 claims which are federally justiciable now. But it is possible that the governmental defendants will finally see the error of their ways and take advantage of this opportunity to settle their difference with the plaintiffs under the MTCA process before further litigation ensues. Plaintiffs therefore seek to dismiss

the tort claims in Count Two of their complaint without prejudice so these claims can be added back at a later date if satisfaction cannot be achieved under the MCTA process.

4. The point is that all these outstanding matters can be cleared up simply by granting plaintiffs leave to amend their complaint. The proposed third amended complaint is attached herewith as an exhibit. Note that it incorporates the pendant parties and claims sought in docket entries #10 and #11, and that it does not contain the MCTA tort claims against governmental defendants at this time, although permission to amend the complaint a fourth time may be sought later if the MCTA process does not achieve satisfaction.

5. Upon obtaining leave of this Court to file their third amended complaint, and upon filing said complaint, plaintiffs will serve process upon all defendants simultaneously in order to start their 21-day clocks to answer anew. This appears to be the best way to get all the defendants on track for a pretrial scheduling order. When this amended complaint is filed, it will be as if plaintiffs dismissed their federal lawsuit without prejudice and entirely filed anew.

6. Plaintiffs ask the Court's indulgence for this winding path; this has been an exceptionally difficult case to litigate, especially due to the concerns for immediate injunctive relief to prevent irreparable injury.

Respectfully Submitted, this the 6th day of June 2023.

/s/ Marvin Vining
MARVIN VINING

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CERTIFICATE OF SERVICE

I, Marvin Vining, lead counsel for plaintiffs, certify that I have this date served a copy of the above and foregoing Second Motion to Amend Complaint to the following interested persons by way of the ECF electronic filing system and by courtesy emails.

Honorable Tom S. Lee

Judge assigned this case

Honorable Michael T. Parker

Magistrate assigned this case

Rayford G. Chambers, Esq.
rchambers@cglawpartners.com

Lead attorney for Hinds County
Board of Supervisors and for
Supervisor David L. Archie

John Hall, Esq.
jhall@halllawgrp.com

Lead attorney for Sheriff Tyree
D. Jones and the defendants
currently named as Unknown
Sheriff's Deputies and
Constables

This, the 6th day of June 2023.

/s/ Marvin Vining
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